

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODPUR**

ORDER

S.B. Criminal Misc. Petition No.1354/2006
(Hari Babu Vs. State & Anr.)

Date of Order : 19th September , 2007

HON'BLE MR. H.R. PANWAR, J.

Mr. B.L. Swami for petitioner.
Mr. Ashok Upadhya, P.P.
Mr. M.S. Amrawat for respondent No.2.

By the instant criminal misc petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 26th September, 2006 passed by the Judicial Magistrate, First Class, District Jodhpur (for short 'the trial court'), whereby the applications filed by the petitioner under Section 311 and 91 Cr.P.C. as also under Section 73 and 45 of the Evidence Act came to be dismissed.

Heard learned counsel for the parties and perused the order impugned and the material available on record.

So far as comparison of the signature is concerned, by the impugned order, the trial court held that the court is competent to compare the signature in view of the provisions of the Evidence Act. The petitioner has filed an application under Section 311 Cr.P.C. for recalling the complainant-respondent for cross-examining him on the documents namely notice/complaint dated 13.07.2006, postal receipts, statements recorded by the Air Force Authorities pursuant to complaint dated 13.07.2006, letter dated 19.07.2006 received by the counsel for the petitioner sent by Air Force Head Quarters and reply dated 28.11.2005 sent to the complainant. On considering the material on record and facts and circumstances of the case the trial court found that there is no ground to allow the application as there was sufficient time for the petitioner to file such documents before the respondent was examined including his cross-examination. More so, the trial court held that the documents sought to be produced at such a belated stage have no relevancy to the controversy involved in the case and neither the said documents nor the recalling of the witness is essential for just decision of the case and, therefore, did not find any good ground to allow the same.

In my view, the order impugned does not suffer from any infirmity and, therefore, calls no interference by this Court.

It cannot be said that the impugned order would result in serious miscarriage of justice or abuse of the process of the Court. The criminal misc. petition is, therefore, dismissed.

(H.R. PANWAR), J.

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